

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE:

Methyl Tertiary Butyl: Master File No. 1:00-1898  
Ether ("MTBE") : MDL NO. 1358 (SAS)  
Products Liability : M21-88  
Litigation :

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This Document Relates to:  
Orange County Water District  
v. Unocal Corporation, et al.,  
S.D.N.Y. No. 04 Civ. 4968 (SAS)

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CONFIDENTIAL  
(Per 2004 MDL 1358 Order)

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OCTOBER 20, 2008  
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Videotaped Deposition of DAVID P. BOLIN,  
Volume 6, OCWD'S 30(b)(6) DESIGNEE, re Focus Plumes  
2, 7 and 9, held in the law offices of Latham &  
Watkins, 650 Town Center Drive, Suite 2000, Costa  
Mesa, California, beginning at 9:08 a.m., before  
Sandra Bunch VanderPol, RPR, RMR, CRR, CSR #3032.

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1 actually commingled with the stations that are to the  
2 southwest?

3 A. We don't have a solid definition on  
4 the plume or contamination that's emanated from Mobil  
5 18-JMY, so we don't know to what degree it has  
6 commingled with contamination from these other sites.

7 Q. Does that mean that you think that  
8 there is some commingling? When you reference to  
9 what degree, I'm wondering if that means that you  
10 think there's a slight commingling that's occurred?

11 A. Well, I think there's a great  
12 likelihood that, since all these sites are suspect  
13 source locations for MTBE in groundwater, and  
14 because the MTBE has been detected in these three  
15 production wells, we don't know exactly which site  
16 the contamination has come from, but they all could  
17 be impacting, which means they have all commingled.

18 Q. All right. So the evidence that  
19 you're relying upon to draw the conclusion that  
20 there's been a commingling between Mobil 18-JMY and  
21 the stations to the south is that there are wells  
22 that have been impacted that are in the proximity of  
23 both; am I correct?

24 A. Yes.

25 Q. And you don't know really the

1 Q. Okay. I want you to focus on the  
2 call of my question.

3 I want to know, sitting here today, if  
4 there's anything that you think they should have done  
5 differently?

6 A. I don't have an opinion as to whether  
7 there is anything they should have done differently.

8 Q. All right. Has the contamination  
9 emanating from Mobil 18-HDR escaped remediation?

10 A. Let me take a look at my notes.  
11 Yes, I believe it has.

12 Q. Okay. Do you have an estimate as to  
13 how much has escaped remediation?

14 A. No.

15 Q. Do you know when this escape  
16 occurred?

17 A. No, I don't.

18 Q. I notice you've pulled out a map for  
19 yourself. Do you mind letting me look at it just to  
20 see what it is that you're looking at?

21 MR. AXLINE: No.

22 THE WITNESS: No.

23 BY MS. ROY:

24 Q. Is this something that was in your  
25 binder or is this another document?

1           A.       This is an enlargement of a map  
2 that's in the documents you already have.

3           Q.       Okay. The document that I've been  
4 handed is labeled "Site map for ExxonMobil Oil  
5 Corporation service station 18-HDR, Figure 2."

6                   And this is from your binder? Can you tell  
7 me which tab it's under?

8           A.       It's Figure 2. Yes, Tab 8. I  
9 believe this is Figure 2 in a report that I think you  
10 handed to me as Exhibit 79.

11           Q.       Exhibit 79, okay. All right. So  
12 Exhibit 79, if you turn to the document that the  
13 Bates labelled as 192235, do you see that?

14           A.       Yes.

15           Q.       Okay. Would you agree that that's  
16 the same as this enlargement that you're looking at  
17 now?

18           A.       I believe that it is the same.

19           Q.       Okay. And can you tell me where this  
20 contamination has escaped to on the map?

21           A.       Southwest of the site, into off-site  
22 wells.

23           Q.       And which wells would those be?

24           A.       MW-9 -- there are two wells there.  
25 MW-9B, which I believe is off site of the station.

1 That's right adjacent to the Big O Tires building in  
2 the south -- just southwest of the site.

3 MW-16, which is in the bottom left corner of  
4 that map. That's also southwest of the site. Again,  
5 this is in the downgradient direction.

6 MW-7, which is in Cinnamon Avenue.

7 MW-15A and 15B, which is across the street  
8 and southwest of the station.

9 MW-10A and 10B, which is almost adjacent to  
10 the station but is in Cinnamon Avenue, just southeast  
11 of the center of the station.

12 Those wells are in the general downgradient  
13 direction.

14 In well MW-5A, which is just north of the  
15 station in Geisler Avenue.

16 MW-5B, which is adjacent to or -- I guess  
17 they are nested, they are nested wells, all in the  
18 same location.

19 MW-6A, which is east of MW-5 and just north  
20 of the station in Geisler Avenue.

21 And that is all that I can identify right  
22 now.

23 Q. Okay. Has OCWD done anything to  
24 determine whether the MTBE that was found in those  
25 wells that you've just listed came from Mobil 18-HDR

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2 SOUTHERN DISTRICT OF NEW YORK

3 IN RE:

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10 This Document Relates to:  
11 Orange County Water District  
12 v. Unocal Corporation, et al.,  
13 S.D.N.Y. No. 04 Civ. 4968 (SAS)  
14 /

15 CONFIDENTIAL  
16 (Per 2004 MDL 1358 Order)

17 -----  
18 OCTOBER 21, 2008  
19 -----

20 Videotaped Deposition of DAVID P. BOLIN,  
21 Volume 7, OCWD'S 30(b)(6) DESIGNEE, re Focus Plumes  
22 2, 7 and 9, held in the law offices of Latham &  
23 Watkins, 650 Town Center Drive, Suite 2000, Costa  
24 Mesa, California, beginning at 9:12 a.m., before  
25 Sandra Bunch VanderPol, RPR, RMR, CRR, CSR #3032.

26 GOLKOW TECHNOLOGIES, INC.  
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29 deps@golkow.com

1 0.16 micrograms per liter in HB-7 and 0.17 micrograms  
2 per liter in HB-13. Do you see that?

3 A. I've reported in my notes that MTBE  
4 was detected in both HB-7 and HB-13 at 0.16  
5 micrograms per liter and 0.17 micrograms per liter,  
6 respectively.

7 Q. Is it your contention that MTBE  
8 gasoline from 6502 Bolsa is the contamination that  
9 has resulted in the micro detections at HB-7 and  
10 HB-13?

11 A. We haven't identified which of the  
12 stations the detections in HB-7, HB-13 are from. All  
13 the stations on this map, including Shell 6502 and  
14 Westminster Shell, are suspect source locations for  
15 those detections, and we are still working to  
16 determine the sites from which contamination is  
17 emanating, that have gotten into the wells.

18 Q. I apologize if this sounds like a  
19 question I asked you earlier, but I -- you have to  
20 explain to the uninitiated.

21 I understand that you have a bunch of  
22 stations within the general vicinity of two wells  
23 that have micro detections. What I'm puzzled by is,  
24 based on my amateur understanding of hydrogeology,  
25 normally what you would do is you would find a



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13 S.D.N.Y. No. 04 Civ. 4968 (SAS)  
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15 CONFIDENTIAL  
16 (Per 2004 MDL 1358 Order)

17 -----  
18 Thursday, October 30, 2008  
19 -----  
20

21 Videotaped Deposition of DAVID P. BOLIN,  
22 Volume 9, OCWD'S 30(b)(6) DESIGNEE re Focus Plumes  
23 8 and 4, held in the law offices of Latham &  
24 Watkins, 650 Town Center Drive, Suite 2000, Costa  
25 Mesa, California, beginning at 8:28 a.m., before  
Sandra Bunch VanderPol, RPR, RMR, CRR, CSR #3032.

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1           A.       We were talking about the  
2       contamination that remained in groundwater after the  
3       no further action letter had been issued.

4           Q.       Is there anything else that you can  
5       recall from the conversation?

6           A.       No, I can't.

7           Q.       Did you and Mr. Herndon discuss  
8       taking any course of action in response to this  
9       closure?

10          A.       No, I don't. I don't remember that.  
11       Not any specific course of action.

12          Q.       Other than the conversation that we  
13       just discussed, are you aware of whether or not  
14       Mr. Herndon took any kind of action after receiving  
15       Exhibit 146, the February 8th letter -- or 6th  
16       letter?

17          A.       I don't know what action Roy might  
18       have taken. I'm not sure what action you might be  
19       referring to.

20          Q.       I'm really just curious to know. I'm  
21       not referring to anything in particular.

22          A.       I don't know what action he took.

23          Q.       Did OCWD object to the closure of  
24       Mobil 18-HEP to the Regional Board?

25          MR. SAWYER: I will object, to the extent it

1 uses the term "object," as vague and ambiguous.

2 THE WITNESS: I don't recall submitting a  
3 written objection. I don't recall whether we had  
4 discussions with the Water Board after this letter  
5 came out or what we did.

6 BY MS. ROY:

7 Q. Do you have any recollection of  
8 having any communication with the Regional Board  
9 about closure of Mobil 18-HEP?

10 MR. SAWYER: Objection. Asked and answered.  
11 Argumentative.

12 THE WITNESS: I don't.

13 BY MS. ROY:

14 Q. In terms of assembling your binders,  
15 if there had been a written objection or a letter  
16 sent to the Regional Board from OCWD related to  
17 closure of Mobil 18-HEP, is that the sort of document  
18 that you would have pulled to include in your binder?

19 MR. SAWYER: Objection. Calls for  
20 speculation.

21 THE WITNESS: It is certainly one I would  
22 have -- if I didn't have it in the binder, it's one  
23 I certainly would have made note of in my summary  
24 notes.

25 ///

1 BY MS. ROY:

2 Q. And there aren't any in your summary  
3 notes; is that correct?

4 A. And there aren't any in my summary  
5 notes. I don't think we had any -- there was any  
6 kind of a document like that.

7 Q. Other than communication with the  
8 Regional Board, putting that aside since we just  
9 talked about that, did OCWD discuss closure of Mobil  
10 18-HEP with anyone or any other entity?

11 A. I don't recall whether we had  
12 discussion about the closure with -- with anybody  
13 else.

14 Q. Okay. Now, other than the particular  
15 conversation that you just referenced between you and  
16 Mr. Herndon about closure, do you recall any other  
17 internal communication amongst anyone at OCWD about  
18 the closure of Mobil 18-HEP?

19 A. I don't recall for certain. I know  
20 we've had conversations with our assistant general  
21 manager that oversees our department, keep him posted  
22 on our activities. It's possible that Mobil 18-HEP  
23 came up in a reference as to a site that was  
24 closed by the agency.

25 I just remember these concentrations,

1 documents in the past -- it's not specific to this  
2 site, but there have been occasions when Roy Herndon  
3 or I have been CC'd on a document that I believe the  
4 regulatory agencies intended for us to receive or,  
5 thought we had received, but we did not receive. So  
6 sometimes, for whatever reason, documents or letters  
7 fall through the cracks.

8 And I cannot say -- unless I can find a  
9 copy, I cannot say whether Orange County Water  
10 District actually received this letter dated  
11 March 16, '07.

12 Q. Understood. But OCWD was certainly  
13 aware in March of 2007 that the Regional Board was  
14 issuing a closure letter for Mobil 18-HEP; is that  
15 correct?

16 MR. SAWYER: Objection. Lack of foundation.

17 THE WITNESS: Just a brief second. Yes, as  
18 a result of the -- I believe as a result of the  
19 February 6, 2007 letter, from the Water Board to  
20 Marla Guensler, that the District knew the Water  
21 Board was closing this site.

22 BY MS. ROY:

23 Q. All right. I'd like to direct your  
24 attention to -- actually, let me back up.

25 You mentioned when you referenced the

1 THE WITNESS: No, I don't know when the last  
2 release was.

3 BY MS. ROY:

4 Q. Do you recall seeing any  
5 documentation in your files about when releases  
6 occurred at Mobil 18-HEP?

7 MR. SAWYER: Same objection. Overly broad.  
8 Vague and ambiguous.

9 THE WITNESS: Yes, I believe there are some  
10 Unauthorized Release Reports for this site in Tab --  
11 after Tab 4.

12 BY MS. ROY:

13 Q. And looking at your notes, your  
14 Exhibit 142, I note that the most recent one that you  
15 reference is one occurring in 1998; do you see that?

16 A. In my notes. That is the last  
17 Unauthorized Release Report that I believe I have  
18 seen. Yes, there is one that was reported on  
19 September 24th, 1998. I don't know what happened  
20 after that.

21 Q. And do you know when Mobil 18-HEP  
22 ceased operations?

23 A. No, I don't.

24 Q. I will represent to you -- well, do  
25 you know when the tanks were removed from Mobil

1 18-HEP?

2 A. I believe -- I have in my notes that  
3 USTs were removed in September '98. I don't know  
4 about anything after that.

5 Q. And have you seen any documentation  
6 suggesting that any leak occurred after that time?

7 A. No. I don't know that I have seen  
8 all of the underground -- the tank release reports,  
9 but I haven't seen anything after that date that I  
10 recall.

11 Q. All right. Is it safe to assume  
12 though that if all the tanks are pulled, that there  
13 probably isn't another release that's going to occur  
14 after that?

15 MR. SAWYER: You are assuming facts not in  
16 evidence. You're assuming that all the tanks were  
17 pulled. Lack of foundation. Based on assumption of  
18 facts that aren't in evidence.

19 THE WITNESS: I don't know that there --  
20 whether there were any tanks installed after that,  
21 and I don't know whether all of the tanks were  
22 removed.

23 BY MS. ROY:

24 Q. All right. Mr. Bolin, I'd like you  
25 to go back to Exhibit 48, which should be sitting

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 \_\_\_\_\_ X

4 In re: Methyl Tertiary Butyl Ether  
5 ("MTBE") Products Liability Litigation

6 \_\_\_\_\_ X

7 Master File No. 1:00-1898

8 MDL No. 1358 (SAS)

9 M21-88

10 \_\_\_\_\_ X

11 CONFIDENTIAL (Per 2004 MDL 1358 Order)

12  
13 VIDEOTAPED 30(b)(6) DEPOSITION OF

14 David P. Bolin

15 November 6, 2008

16  
17 Taken at 650 Town Center Drive,  
18 20th Floor, Costa Mesa, California, before  
19 Harry A. Palter, California Certified  
20 Shorthand Reporter No. 7708, Certified  
21 LiveNote Reporter.

22  
23 GOLKOW TECHNOLOGIES, INC.  
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deps@golkow.com



1                   You can provide any  
2           personal observations you have.

3                   THE WITNESS: I sure do.

4 BY MR. FINSTEN:

5           Q.       Does the District have any data  
6   that the contamination in 1887 has escaped  
7   remediation?

8                   MR. SAWYER: Same  
9           objections.

10                  THE WITNESS: Well, let's  
11       see.

12                  Currently, the groundwater  
13       flow, at least as of February 19  
14       and 20, 2008, is towards --  
15       from -- in the east part of the  
16       site, flows to the west; in the  
17       south part of the site, so it  
18       flows to the north.

19                  So it looks like there is a  
20       depression in the northeast corner  
21       of the site. Groundwater flows in  
22       that direction.

23                  However, there is  
24       contamination that's been detected

1           in offsite wells: BC-1 to the  
2           west, MW-17 to the south, MW-15 to  
3           the southeast; and at site margin  
4           wells: MW-3 to the east, MW-4 to  
5           the southeast.

6 BY MR. FINSTEN:

7           Q.       And you are looking at --

8           A.       The Delta report, figure 3,  
9           which is titled, "Groundwater Elevation  
10          Contour and Analysis Map, Upper Zone,  
11          February 19 and 20, 2008."

12                    It is figure 3 of that same  
13          document -- same Delta document identified,  
14          dated April 20, 2008. The first document  
15          after tab 8.

16          Q.       Would that be the same document  
17          as the third page in Exhibit 196?

18          A.       Yes -- well, let me look at it  
19          and confirm.

20                    Yes.

21          Q.       Okay.

22                    Let me just mark the wells that  
23          you mentioned.

24                    MW-17, MW-15, and MW-3 and -4.

1 last entry.

2 Q. And let me just --  
3 approximately -- I don't want to make you  
4 count this, but --

5 A. It looks like it was quarterly.

6 Q. Quarterly are, and it hasn't  
7 been detected in Monitoring Well 3 since  
8 1996?

9 A. No.

10 It looks like it might have  
11 moved past there.

12 Q. All right.  
13 Monitoring Well 4.  
14 Continuing down.

15 A. It was detected in Monitoring  
16 Well 4 at 9.7 micrograms per liter on  
17 February 22nd, 2002.

18 Q. And has it been detected before  
19 or since?

20 A. No.

21 Q. Now let's turn to the offsite  
22 wells.

23 Monitoring Well 15, which I  
24 guess is going to be page 20 of 36, looks

1 like it starts.

2 I don't mean to be hiding the  
3 ball here.

4 Does it look like the first  
5 substantive detection was 12-28-99 on  
6 page 21?

7 A. I'm sorry.

8 Are you looking at 15; right?

9 Q. Yes.

10 A. Oh.

11 Yes.

12 December 28, '99, the first  
13 detection was at 7.8 micrograms per liter.

14 Q. Okay.

15 A. And it's been detected every  
16 quarter since then -- since it's been tested.

17 Q. But it hasn't been tested since  
18 September, 2002.

19 A. Well, the well was abandoned.

20 Q. Okay.

21 And then Monitoring Well 17.

22 A. MTBE was first detected in  
23 December of 1998 at 48 micrograms per liter.

24 And it was detected once after

1 that.

2 Q. Once after that, being  
3 March 9th, 1999?

4 A. Sorry.

5 I turned the pages.

6 I didn't record the date.

7 It was -- what page are you on  
8 again, so I can turn quickly?

9 Q. 17 of 22 -- 36.

10 A. Okay.

11 Q. It starts --

12 A. Uh, yes.

13 It was recorded -- or detected  
14 twice in MW-17: Once in December, '98, and  
15 once in March, '99.

16 Q. And it has not been detected  
17 since?

18 A. It has not been detected since  
19 then on the dates it was tested, which was  
20 mostly quarterly.

21 Q. And the remediation began in  
22 what point in the station?

23 A. Well, the dual-phase extraction  
24 was initiated in 2002.